



(916) 324-6594

June 26, 1984

Change in Ownership

This is in reply to your letter to Mr. James J. Delaney of May 31, 1984, which sets forth the following facts:

Mr. H owns 100 percent of the voting stock of Corporation "S". "S" owns real property in Los Angeles, California. Mr. H desires to form Corporation "P". Mr. H then contributes all of his stock of "S" to "P" as his capital contribution to "P". After the transaction, Mr. H owns 100 percent of the voting stock of "P". "P" owns 100 percent of the voting stock of "S".

Based on the foregoing facts, you ask the following questions:

1. Does this transaction create a need for the real property owned by "S" to be reassessed for property tax purposes?

Answer: No.

Revenue and Taxation Code Section 64(c) provides in relevant part that:

"When a corporation, ... or any other person obtains control, as defined in Section 25105, in any corporation, ... through the ... transfer of corporate stock, ... such ... transfer of such stock ... shall be a change of ownership of property owned by the corporation, ... in which the controlling interest is obtained."

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Section 62(a)(2) provides in relevant part, however, that "change in ownership" shall not include:

"Any transfer between an individual... and a legal entity...which results solely in a change in the method of holding title to the real property and in which the proportional ownership interests of the transferors and transferees, whether represented by stock...or otherwise, in each and every piece of real property transferred, remain the same after the transfer."

Here, Corporation "P" obtained control of Corporation "S" when Mr. K transferred all of the voting stock of Corporation "S" to Corporation "P". Under Section 64(c), such a transfer is a change in ownership of the real property owned by Corporation "S". However, since the proportional ownership interests of Mr. K in the real property remain the same after the transfer, the transfer is excluded from change in ownership under Section 62(a)(2).

2. What should the answer to question K (on the Franchise Tax Board's 1983 Form 100) be?

Question K states: If the corporation owned real property in California on 3/1/83, has cumulatively more than 50% of the voting stock (1) been transferred by the corporation since March 1, 1975, or (2) been acquired by another legal entity or person during this year?

Since Corporation "S" owned real property in California on 3/1/83 and since Corporation "P" acquired 100 percent of the voting stock of Corporation "S" this year, the answer to question K is yes.

If you have further questions regarding this matter, please get in touch with me.

Very truly yours,

Eric F. Eisenlauer
Tax Counsel

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cc: Messrs. Adelman